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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,495	09/08/2003	Yu-Chin Lai	P03364	9341
23702	7590	01/23/2006	EXAMINER	
Bausch & Lomb Incorporated One Bausch & Lomb Place Rochester, NY 14604-2701			PEZZUTO, HELEN LEE	
			ART UNIT	PAPER NUMBER
			1713	
DATE MAILED: 01/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,495

Applicant(s)

LAI, YU-CHIN

Examiner

Helen L. Pezzuto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

Applicant's amendment to claims 4-5, 7-8 filed in the response on 11/10/05 is acknowledged. Currently, claims 4-9 are pending in this application. In light of applicant's amendment and remarks, previous 102 rejections of record are hereby withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ichinohe (US-792 or EP-541). The reference to the discussion will be directed to US-792.

US 6,878,792 B2 and EP 1 293 541 A2 to Ichinhe disclose a polymerizable azo yellow dye structurally defined in formulas [I] or [II] (col. 3, lines 14 to col. 4, line 19), with suitable embodiments expressed at col. 5,

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line 11 to col. 6, line 33. The addition of said yellow dye to a silicone material having hydrosilyl groups is expressly taught and exemplified (col. 4, lines 20-54; col. 6, lines 34-49; cols. 9-10, Examples 1 and 3). Patentee further teaches the radical polymerizability of these azo yellow dyes, and their capability forming copolymer products with acrylic comonomers via radical mechanism (abstract; col. 4, lines 35-38; col. 6, lines 38-39). Production of acrylic resins with azo dye compound 2 was exemplified (col. 10, Example 2). In light of the clear suggestion of chemical bonding of azo yellow dyes to silicone material, and their capability of forming acrylic type copolymer products via free radical mechanism, provided within the context of intraocular lens manufacturing. It would have been obvious and fully within the purview of one skilled in the art to formulate such polymeric composition within the scope of applicant's claims as taught, motivated by the reasonable expectation of success in the production of intraocular lens products, as in applicant's endeavor. Thus, rendering obvious the present claims.

Response to Arguments

Applicant's amendment and remarks filed on 11/10/05 have been fully considered but are not found to be persuasive. The examiner remains of the position that prior art dye monomer (II) is within the scope of applicant's compound as defined in the present claims. Patentees specifically define at least one of the R substituents is represented by formula 8, wherein the R²³ embraces the instant R₂, and X¹¹, X¹³ defined as linear or branched bivalent spacer groups, are within the scope of the instant R₁ and R₃ (i.e. straight or branched C₁₋₁₀ alkylene spacer). The argument regarding the spacers X¹¹ and X¹³ encompass an infinite number of species is not compelling because, likewise, the instantly recited spacer encompass a large number of species. One skilled in the art would have readily envisaged prior art bivalent spacer groups to encompass alkylene spacer as claimed, absent evidence of unusual and/or unexpected results. Accordingly, the examiner's position is maintained.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action

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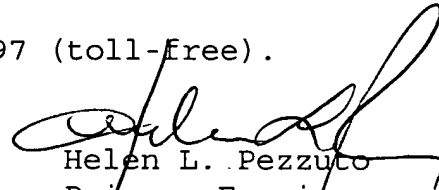
is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen L. Pezzuto whose telephone number is (571) 272-1108. The examiner can normally be reached on 8 AM to 4 PM, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Helen L. Pezzuto
Primary Examiner
Art Unit 1713

hlp